

A INSTRUCTIONS TO TENDERERS

PUBLICATION REFERENCE:

Italian – Egyptian Commodity Aid Programme - Tender no.

In submitting its tender, the Tenderer accepts in full and without restriction the special and general conditions governing this Tender as the sole basis of this tendering procedure, whatever its own conditions of sale may be, which it hereby waives. Tenderers are expected to carefully examine and comply with all instructions, forms, contract provisions and specifications contained in this tender dossier. Failure to submit a tender containing all the required information and documentation within the deadline specified will lead to the rejection of the tender. No account can be taken of any reservation in the tender as regards the tender dossier; any reservation will result in the immediate rejection of the tender without further evaluation.

These Instructions set out the rules for the submission, selection and implementation of contracts financed under this call for tenders, in conformity with the provisions of the Italian Legislative Decree on contract procedures 12.04.2006 no. 163, which is applicable to the present call.

A glossary of the terms used here is provided in Annex VII of this tender dossier.

1. Supplies to be provided

1.1 The subject of the contract is the supply, delivery, installation, training, after-sales service by the Contractor of the following goods:

- List of Commodities as per Annex II, to be provided according to the Technical Specifications detailed in Section E;
- Spare parts up to 10% of the total value of the above mentioned commodities, according to the technical specifications and request of the Contracting Authority, details in Section E;
- Training course and preliminary assessment in Italy.

The Tenderers, which apply to this Tender, commit themselves to delivery , destination: the commodities within **90** days from the date of coming in to force of the Supply Contract¹ and within **months** from the date of signing the contract. Any delivery date offered by the Tenderer, which postpones the delivery date, respect the above mentioned terms, it shall be considered rejected by the Contracting Authority and the offer accepted within the maximum terms allowed by this article to be confirmed before awarding of the Tender and in the Supply Contract.

¹The Contract effectiveness shall take place according to Article 6 “Coming into force”, part D “Supply Contract” of the Tender Document. The coming into force of the contract occurs only after signing the Contract and after the accomplishment of specific obligations by the parties. For the same reason the delivery date, not set as a calendar date in the Tender Document, shall be proposed by Tenderers and shall be evaluated and accepted by the Contracting Authority which, after awarding and signing the Supply contract, will take the subsequent actions according to the Contract and to this Tender. The Contracting Authority, in order to allow the Supply Contract to come into force, shall send a copy of the signed contract to the National Bank of Egypt (NBE) and request issuing a Letter of Credit for an amount equal to the contract price. This event occurs only after signing the Supply Contract. After issuing the Letter of Credit (and after Notification to the Contractor’s bank) by the NBE Italian through the Agent Bank, Intesa-Sanpaolo S.p.A., in favour of the for the Contractor, the following juridical acts occur: the Supply Contract comes into force; the Contractor is eligible according to contract clauses to request an advance payment; the time for delivery starts to elapse. After notification of award to the successful Tenderer one month, approximately, elapses before signing the Supply contract. After signing the Supply contract the Contracting Authority processes the contractual documents through the competent Egyptian and Italian Authorities for compliance and afterward applies to the National Bank of Egypt for the Letter of Credit in favour of the same Contractor through the Italian Agent Bank. Upon conclusion of the bank and administrative procedures, the Supply Contract is meant to come into force according to the agreed terms, with the Contractor, for final delivery. Upon delivery, the Surveillance and Control Company, Viglienzona Adriatica S.p.A., shall

The Tenderer shall propose a specific number of days for delivery, which shall start from the signing of the contract according to the timetable, article 2, of this Instruction to Tenderers. If the Tenderer provides a number of months instead of days, every month will be considered made of 30 days (commercial year). If the letter of credit, main element for the contract coming into force, is issued before 90 days from the agreed date for delivery, the event shall not affect the delivery date, which will remain as per the offer, or subsequent agreed date in the contract. If the Letter of credit is issued less than 90 days before the delivery date, or after the delivery date, the delivery shall take place within 90 days after the Contract comes in to force. By planning the delivery date, the Tenderers shall properly pay attention to the fact that the time for delivery is an important element taken into account in the scoring system. The score will be assigned according to the delivery date offered starting from the date in which the contract is signed by the parties. The delivery within the above-mentioned terms with reference to the contract effectiveness is a mandatory element not scored. Any declaration from the Tenderer attesting the delivery after a longer period from the contract coming into force, respect the above indicated, it is null and void.

1.2 The supplies² must comply fully with the technical specifications set out in the tender dossier (Section E - technical specifications) and conform in all respects with the plans, quantities, models, samples, measurements and other instructions. The supply shall be accompanied by a minimum “lot” of spare parts and/or of consumables. Neither the unit price nor the overall price of the spare parts will figure in the evaluation of the tender³, except where the unit price or the number of parts varies substantially between the tenders received⁴. The list of spare parts must be drawn up by the Tenderer in the light of its professional experience and taking account of the places of use; it must show the unit prices of the parts, calculated based on Article 11 (below). Nevertheless, the Contracting Authority reserves the right to alter the list of spare parts; any changes will appear in the contract.

1.3 Tenderers are not authorized to tender for a variant in addition to the present.

survey the downloaded cargo in order to assess its conformity to the bill of lading and to the cargo previously loaded in Italy. The verification procedures by Viglienzona Adriatica S.p.A. reaches an end by issuing a Certificate of Conformity at Final Destination and of Delivery to be normally released after positive acceptance by the Consignee. However, Viglienzona Adriatica S.p.A., after 2 weeks from delivery without acceptance by the Consignee, shall issue its Certificate on the sole basis of the positive survey results.

² Including the spare parts and/or consumables requested by the Contracting Authority.

³ The rule applies by subtracting the overall price of the “lot” of spare parts and or consumable from the total price-offer for the calculation and assignment of the score to the financial offer.

⁴ The exception to the rule applies in front of a substantial variation which is considered a difference above 5.00% of the value of such “lot” of spare parts and/or of consumables between the Tenderer who offered the maximum value and the Tenderer who offered the lowest value for the “lot” of spare parts and/or of consumables within the same Tender. The value of the “lot” is equal to its total price provided by Tenderer in his offer. The exception applies by not excluding the overall price of the spare parts and or consumables from the calculations for assigning the score to the financial offer.

2. *Timetable*

	DATE**	TIME*
Tender publication date	Date of the notice's publication on GURI	--
Deadline for submission of tenders	60 calendar days after publication on GURI	13:00 (01:00 pm)
Tender opening session***	First available working day after deadline	11:00 (11:00 am)
Notification of award to the successful Tenderer	At most 60 days after deadline for tenders	--
Contract signature	At most 90 days after deadline for tenders	--
Commencement date	At most 90 days after deadline for tenders	--

* All times are in the time zone of the country of the Contracting Authority

** To be modified upon the publication of the Tender Notice published in not less than two Italian major Newspapers, DIPC0, and through Unioncamere, according to the Transmission Letter.

*** The Tenderers shall be represented by a legal representative, with power of attorney, for each public opening of the envelope: 'A', 'B' and 'C'. The opening date and the other meetings will be published on the official board in the same way the Tender Documents have been distributed.

3. *Participation*

- 3.1. Participation is open on equal terms to all legal and natural persons, which are established in a Member State of the European Union. The applicable law for the purpose of this tender is the Italian one.
- 3.2. These entities must have a statutory office, central administration or principal place of business in Italy. However, if they have only their statutory office in Italy, their activity must have an effective and continuous link with Italy implying the capability of providing services in Italy and manufacturing commodities in Italy. Tenderers must provide evidence of their status.
- 3.3. These entities must be registered at one of the Italian Chambers of Commerce within a civic boundary inside the Italian national territory. They must be duly authorized to perform the commercial activities related to the supply for which the Tenderers are submitted.
- 3.4. The Entities may be constituted in a form of Joint venture, Consortium or other legal form of company association according to the Italian Law. The rules herein contained, apply to all individual Tenderers, even if members of a joint venture or a Consortium.
- 3.5. Natural or legal persons are not entitled to participate to competitive tendering, or to be awarded contracts, if:
 - a) They are in the conditions as referred to in the Italian Legislative Decree 8.8.1994, no. 490 ("Antimafia"). Italian tenderers/offerers must provide the evidence thereof by the "certificato antimafia", issued by the competent Italian authorities. Non-Italian tenderers/offerers must provide equivalent certificates, if issuable under their respective national law.
 - b) They are bankrupt, or being wound up, or are having their affairs administered by the courts, or have entered into an arrangement with creditors, or have suspended their business activities, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations.

- c) They are the subject of proceedings for a declaration of bankruptcy, for winding-up, for administration by the courts, for an arrangement with creditors or for any similar procedure provided for in national legislation or regulations.
- d) They or their directors or partners have been convicted of an offence concerning professional conduct by a judgement, which has the force of *res judicata*.
- e) They are guilty of grave professional misconduct proven by any means that the contracting authority can justify.
- f) They have not fulfilled obligations related to the payment of social security contributions in accordance with the legal provisions of the country where they are established.
- g) They have not fulfilled obligations related to the payment of taxes in accordance with the legal provisions of the country where they are established.
- h) They are guilty of serious misrepresentation in supplying the information required by the MAE-DGCS as a condition of participation in a tender procedure or contract.
- i) They have been declared to be in serious breach of contract for failure to comply with obligations in connection with another contract with the MAE-DGCS or another contract financed with Italian funds.
- j) They are in one of the situations allowing exclusion referred to in the Ethics Clauses (article 26) in connection with the tender or contract

Tenderers must provide, joint to their applications, a sworn statement that they do not fall in any of the categories above-listed. The declaration must cover all the members of a joint venture/consortium. Tenderers who have been guilty of making false declarations will incur exclusion.

3.6 To be eligible for the participation in this tender procedure, Tenderers must provide satisfactory proof to the Contracting Authority of compliance with the necessary legal, technical and financial requirements and of their capability and adequacy of resources to carry out the contract effectively. In this regard, the Tenderers will supply the Contracting Authority with proper evidence of their eligibility according to the required legal, technical and financial qualifications and evidence of having the capacity and the means compulsory for a proper fulfilment of the Supply Contract. Therefore, all the tenders will contain the following attachments:

- a) Statement issued by an Italian Chamber of Commerce with the provision “con vigenza”– or a substitutive declaration, dated not before than 90 days from the deadline for submitting the tenders, according to the Italian law;
- b) Copy of the original documents attesting the provisions of the clause no. 3.1, 3.2, 3.3 and 3.4;
- c) List of the main references, specifying amount-date and Customer’s name, especially those concerning past performance in supply contracts, relevant to similar field, and carried out in Egypt and/or other countries in the last three years. In case of supplies carried out in favour of public administrations, such evidences shall be proved by certificates issued or marked from the same public administrations; for supplies carried out in favour of private companies, the certificates are issued by the buyer; in case of declared and motivated impediment, a sworn declaration issued by the Tenderer will be considered valid.
- d) List of the key staff in charge of the administration with their qualifications and year of experience to be involved in fulfilment of the Supply Contract;
- e) In case of subcontracting a value exceeding 10% of the tender price, a proposal concerning the conditions and modalities of the sub-contract;
- f) Reports concerning accounting and financial situation of the Tenderer (or of each part in case of joint venture, consortium etc) i.e. official profit and loss, balance sheet, cash flow and auditors’ reports of the last 3 years produced according to the Italian Law;
- g) Statement attesting the amount of the total sales turnover, regarding the last 3 business years prior to the tender. The offers submitted by firms which sales turnover is less than 500,000 euros in the last 3-year period, will not be considered eligible. In case of temporarily grouped firms, the sales turnover of the last three years of the group leader cannot be less than 300,000

euros and not less than 50,000 euros for each individual participant. The start-up companies willing to participate to the tender, will be considered qualified although not compliant with this rule, provided that they cannot demonstrate a turnover in the previous three-year period;

- h) Document issued by the Tenderer (or by the empowered representative in case of joint venture, consortium etc.) authorizing the request for references⁵;
- i) Letter of reference issued by a main Bank attesting the creditable conduct of the Tenderer;
- j) Statement regarding any information about any legal proceedings or disputes involving the Tenderer at the present time: such information will be limited to the questions directly concerned with the award or the realization of the Supply Contract.
- k) UNIEN ISO 9001/2000 quality certifications in the specific sector of the commodities to be provided and concerning the Manufacturer, in case the Tenderer is not the manufacturer.
- l) Documentation suitable to evidence the regular fulfilment of PAYE and Payroll obligations; it is acceptable also a declaration issued under the Italian law no. 15 dated 4th of January 1968.

All Italian certification documents should be translated in English⁶ by a certified translator and included in the bid documents, as requested in the following Art. 9.

4. Origin of the commodities to be provided

The commodities must be manufactured in Italy. The Tenderers, under their own responsibility, shall declare the Italian origin of the offered commodities endorsed by a Certificate of Origin issued by the proper Italian Chamber of Commerce. In case of complex supplies or compound lots of complementary good, in which are included some items or components not produced in Italy but which are deemed necessary for the overall supply, upon motivated request of the Contracting Authority, the Ministry of Foreign Affairs of Italy, M.A.E. – D.G.C.S., may approve the supply of commodities not produced in Italy for a total value not exceeding the 15% (fifteen percent) of the related contract's amount. In such case, the Tenderer shall attach a Declaration attesting that the components of non-Italian origin are deemed necessary for the overall supply motivating such statement with solid evidences. It is important to highlight the fact that the above-mentioned rule applies to the situation in which the offered commodities are a complex of complementary goods and not when the offer refers to single and identifiable items, although made by many components, ingredients or materials.⁷

The assumption of Italian origin of goods comes from the Italian law no. 115 dated 17th of March 1995 which has been issued after the Council Directive "General Product Safety 92/59/EEC, and the Council Regulation "Establishing the Community Customs Code" 2913/92/EEC. According to the provisions of such regulations, the good shall be declared of Italian origin when they are entirely produced in Italy or they are assembled with components entirely produced in Italy. In case one or more manufacturers, proceeding from other Countries other than Italy, provided a contribution in the manufactory, the goods shall be considered of Italian origin only if the last manufactory process has taken place in Italy with the result of creating a new final product.

⁵ The Tenderer shall provide a document to authorize the Contracting Authority to verify the references provided by the same Tenderer and investigate on the declarations of the Tenderer, for the sole purpose of verifying the statement and references provided by the Tenderer.

⁶ The offers, all correspondence and documents related to the tender exchanged by the Tenderer and the Contracting Authority, must be written in the language of the procedure which is English. All Italian statements, and other documents, shall be translated into English by a certified translator and included in the bid documents. Alternatively to the certified translator, a sworn translation into English language by the company's legal representative shall be attached, in order to facilitate the evaluation of the documents. In case of complex documents, can be translated only the relevant parts, properly highlighting in the original document the translated elements, saving the right of the Contracting Authority to investigate on the validity of the document, on the translation and in case, to ask a subsequent certified translation. A certified translation can be obtained later in Egypt through the certified translators registered at the Consular Section of the Embassy of Italy in Cairo, in case it is requested.

⁷ In case of single manufactured items (not a complex lot of assembled components), the eligibility analysis shall be based on the examination of the final result of the manufacturing process to identify if the obtained product is either of Italian origin or not, and not to the components used to manufacture them.

In the circumstance, the commodities are manufactured in Italy, although with the contribution of another Country for the production of one or more specific components, and the manufactory process is meant to create a new final product, the offer shall be considered eligible. However, it is also a priority to import commodities to be perceived as made in Italy and able to promote the Italian manufactory, in accordance to the Italian-Egyptian Executive Agreement. In this regard, the brand, logo and icon of the manufacturing company affixed on the Commodities, present high relevance to this Tender and they shall be able to communicate the manufactory as made in Italy.

5. *Type of contract*

Price per single unit with itemized expenditure.

6. *Currency*

Tenders must be presented in **EURO**.

7. *Lots*

The tender is normally a unique lot, unless the commodities' features request a partition in more than one lot. Tenderers shall submit their proposal for all items (supplies and services) included in the Tender Dossier.

8. *Period of validity*

- 8.1. Tenderers shall be bound by their tenders for a period of **120 days** from the deadline for the submission of tenders.
- 8.2. In exceptional circumstances and prior to the expiry of the original tender validity period, the Contracting Authority may ask Tenderers for an extension of this period of 60 days. Tenderers agreeing to the request shall not be permitted to modify their tenders and they are bound to extend the validity of their tender guarantee for the revised period of validity of the tender. If they refuse, without forfeiture of their tender guarantees, their participation in the tender procedure will be terminated.
- 8.3. The successful Tenderer shall remain bound by its tender for a further period of 60 days following receipt of the notification of its selection.

9. *Language of offers*

The offers, all correspondence and documents related to the tender exchanged by the Tenderer and the Contracting Authority must be written in the language of the procedure, which is English.

If the supporting documents are not written in English, a sworn translation into English language must be attached, in order to facilitate the evaluation of the documents.

10. Submission of tenders

Tenders must be received before the deadline indicated in the timetable (article 2 of the Instructions to Tenderers) local time of the Contracting Authority.

They must include all the documents specified in these Instructions and they shall be submitted to the following addressee and address:

**GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT
MINISTRY OF PLANNING AND INTERNATIONAL COOPERATION
8, Adly Street, 9th floor, Cairo, Egypt**

To the Attention of the Person in Charge
Italian-Egyptian Commodity Aid Programme - Lot n.

and the envelope shall contain the following specification in bold and highly visible font:

DO NOT OPEN UNTIL
THE FIRST EVALUATION COMMITTEE MEETING

All tenders must be received by international registered letter with acknowledgement of receipt⁸ or hand-delivered against signed receipt by the protocol Officer of the Ministry of Planning and International Cooperation in Cairo. The legitimate receipt, in order to be valid as tender evidence, shall contain the name and address of the Sender, the name and address of the Receiver, the references of the Tender (number of Lot, type of commodities and name of the beneficiary), the date, the time, the protocol number and the readable signature of the receiver.

Tenders shall comply with the following conditions:

10.1 All tenders must be submitted in **one original**, marked "original", and **2 copies** signed in the same way as the original and marked "copy". Which means that each bundle, coming from the Tenderers, shall contain three envelopes marked as per subsequent article 10.2 and each envelope (marked A, B, and C) shall contain three envelopes inside (1 Original and two copies).

10.2 All tenders, including annexes and all supporting documents, must be submitted in three separated sealed envelopes, *signed and stamped on the closing strips and sealed with adhesive band*, named:

Envelope A: Administrative Compliance
Envelope B: Technical Offer
Envelope C: Financial Offer

Due to the need of delivery a copy of the offers to the Evaluation Committee, a copy to the Embassy of Italy and a Copy to the Contracting Authority, every envelope must be provided in three copies.

- § The Envelope A must contain inside three envelopes marked as follows: 1. A-ORIGINAL, 2. A-COPY, 3. A-COPY;
- § The Envelope B must contain inside three envelopes marked as follows: 1. B-ORIGINAL, 2. B-COPY, 3. B-COPY;

⁸ Even if allowed by the Italian Law in force, **it is strongly recommended NOT to send the Tender documents by mail**, but to hand-deliver them in order to avoid the opening of the envelopes during the shipment for whatever reason (Custom control, Police check, Unpredictable event, etc.), being excluded from Tender any offer which arrives not sealed.

- § The Envelope C must contain inside three envelopes marked as follows: 1. C-ORIGINAL, 2. C-COPY, 3. C-COPY.

The Contracting Authority, due to the need of avoiding loss of documents or damaging the printed sheets, shall not take the responsibility to photocopy the received documents after opening the tenders. Any tender submitted without providing the requested copies will be excluded without appeal.

These three envelopes shall be submitted in a single main envelope/package, sealed with adhesive band, stamped, and signed on the closing strips, bearing only:

- a) the above mentioned address;
- b) the reference code of this tender procedure;
- c) the sentence, in a form equal or equivalent to a 16 Arial capital letter bold font: “Not to be opened before the tender opening session”;
- d) the name of the Tenderer

After submitting the tenders to the Ministry of Planning and International Cooperation of the Egyptian Government, any sort of correspondence between the Tenderers and the Contracting Authority shall take place by contacting directly the Ministry of Planning and International Cooperation at the following address:

GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT
MINISTRY OF INTERNATIONAL CO-OPERATION
8, Adly Street – Cairo, EGYPT

11. Content of tenders

All tenders submitted shall comply with the requirements in the tender dossier and comprise:

11.1 The Administrative Compliance (Envelope A) consisting of:

- A Tender presentation with included a Tender Guarantee (see Annex V *Tender Guarantee*);
- Duly authorized signature: an official document (statutes, power of attorney, notary statement, etc.) proving that the person who signs on behalf of the company/joint venture/consortium is duly authorized to do so;
- Full details of the bank account into which payments should be made;
- A duly signed self-declaration statement, stating that the Tenderer is not in any of the situation listed in **Article 3.5** of the Instructions to Tenderers and any other declaration needed to fulfil the provisions of the Articles 3.1, 3.2, 3.3 and 3.4⁹;
- Experience and Capacity of the Company:

⁹ The Tenderer shall provide evidence, in the proper form requested by the applicable law, about the following requirements: (3.1.) To be legal or natural persons, established or resident in a Member State of the European Union (a Copy of the Chamber of Commerce Certificate and copy of the VAT registration number certificate of the company are able to provide such information); (3.2.) To have a statutory office, central administration, principal place of business in Italy (a copy of the officially registered company statute, jointly with the documents in point 3.1, are able to provide such information) or alternatively an effective and continuous link with Italy implying the capability of providing services in Italy and manufacturing commodities in Italy (a sworn statement by the company’s legal representative, along with a copy of relevant sales documents, expenses’ documents, property certificates and others, shall be able to provide such information); (3.3.) To be registered at one of the Italian Chambers of Commerce within a civic boundary inside the Italian national territory, with authorization to perform the commercial activities related to the supply for which the Tenderers are submitted (the documents requested in point 3.1. along with any needed commercial authorization to perform the specific commercial activity, shall be able to provide such information); (3.4.) To be an entity constituted, if the case, in a form of Joint venture, Consortium or other legal form of company association according to the Italian Law (a copy of the official and registered Consortium or Joint Venture agreement, or agreement to other forms of company association, shall be able to provide such information).

- The “Tender Submission Form”, duly completed, which includes the tenderer’s declaration, Annex VII - 7, (from each member if a consortium)
- Copy of the last three years balances duly certificated.
- A certificate declaring the number of assistance centres available in the Country, the Availability of spare parts in the Country and the Intervention Time of the Company (see point 16.4 part C);
- A certificate declaring the delivery date, expressed in a number of days starting from signing the contract;
- A certificate of registration in the Chamber of Commerce;
- A certificate of registration in the Chamber of Commerce complete of the “*antimafia*” declaration or of an equivalent certificate;
- Copies of original documents proving the legal constitution and/or juridical status and establishing the place of registration and/or the corporate headquarters or registered office and, if they are not the same, the location of the headquarters of the company, firm or ordinary partnership, or of the various parts that form the Tenderer, in the case of a temporary association;
- In the case of temporary associations of firms, a special joint-agency contract for these tenders, with proxies to one of them appointed group leader, who will be jointly responsible with the other participants in the group to the Administration. The firms temporarily associated, being awarded for the tender proposed, shall provide the legal documents certifying the association of the firms;
- Any stakeholder may, where appropriate and for a particular contract, rely on the economic, financial, professional or technical capacities of other entities, regardless of the legal nature of the link with them. It must in that case prove to the contracting authority that it will have at its disposal the resources necessary, by producing an undertaking by those entities to that effect. Under the same conditions, a group of economic operators may rely on the capacities of participants in the group or of other entities;

The payment of the Tender Participation Tax (CIG) is not requested since the Contracting Authority is the Government of the Arab Republic of Egypt, a sovereign foreign Authority not under the Italian law.

11.2 A Technical Offer (Envelope B) consisting of:

- i. A Company profile description, including the organization and the structure that will be entrusted to provide installation, training and after-sales technical assistance services in Egypt;
- ii. The following documents:
 - For each supplied equipment, Tenderer shall supply the corresponding qualitative and quantitative description in clear and complete form;
 - If the Tenderer should supply goods manufactured by others, the Tenderer shall submit an authorization given by the Manufacturer to sell his products in Egypt and the relevant Quality Control Certificate ISO 9001;
 - The Tender shall contain all the documentations requested in the Technical Specifications;
 - In the Tender shall be indicated any deviation to the Technical Specifications. These deviations shall be defined in a proper schedule with indicated the different paragraphs to whom the above mentioned Technical Specifications refers;
- iii. Statement by the Tenderer testing the origin of the supplies tendered.
- iv. Each other documents and information requested in this Tender Documents and/or any documentation that the Tenderer considers important. The Tenders shall be submitted following the order above indicated.
- v. Copy of the entire Tender dossier (Annexes included) duly signed in each page for acceptance.

11.3 A Financial Offer (Envelope C) must include:

The itemized Price List. ‘Price form’, (Annex II) attached to Part E: Technical Specifications of this tender, shall be filled.

The after-tax Upset Price, (net of all duties and taxes, including VAT) shall be downward in relation to the total amount of the supply fixed on:

Total Amount: Euro .00

The tender offer shall not be higher than the Upset Price and shall be calculated considering that the quantity of commodities tendered, their elements and/or components, may be proposed, in the Technical Specifications, with no upset number. Tenders out breaking the abovementioned rules will not be accepted.

12. Pricing

- 12.1 Tenderers shall be deemed to have satisfied themselves, before submitting their tender, as to their correctness and sufficiency, to have taken account of all that is required for the full and proper performance of the contract and to have included all costs in their rates and prices. Tenderers must quote unit and overall prices for delivery to the place of destination and in accordance with the above conditions, excluding all duties and taxes applicable to their importation and VAT, from which they are exempt.
- 12.2 Whatever the origin of the supplies, the contract is exempt from stamp and registration duties.
- 12.3 The prices for the contract are fixed and not subject to revision, they include all the supplies (i.e. labour force, vehicles, equipments etc.) with all the accessory charges, even if not specifically mentioned in the Contract, necessary to complete the activities in terms of both quality and quantity.

13. Additional information before the deadline for submission of tenders

The tender dossier should be clear enough to avoid candidates invited to tender from having to request additional information during the procedure. The Contracting Authority has no obligation to provide clarifications or additional information and its silence does not represent a positive or negative answer nor an answer of any sort. Not under any circumstances, the silence of the Contracting Authority, regarding a request of clarification, may represent a rightful element on which basis the Tenderers can claim any sort of prejudice, if such clarification has not been made available for anybody. However, the Contracting Authority, in order to facilitate the tendering of the commodities, undertakes the duty of receiving and analyzing requests of clarifications from the Tenderers.

If the Contracting Authority, either on its own initiative or in response to a request from a prospective Tenderer, provides additional information on the tender dossier, it shall make available such information in a writing form to all the other prospective Tenderers at the same time by using adequate ways of communication. If a website will be made available, or a change in an existing main web address takes place, during a tender, for the purpose of providing the above-mentioned information, the Contracting Authority shall communicate it to all the Tenderers in paper-based written form.

Tenderers may submit request of clarification in writing before the deadline for submission of tenders, specifying the **publication reference and the contract title. The requests shall arrive to the Contracting Authority no later than 30 days before the Tender closing date. The requests shall be submitted** to the following recipient **specifying the Tender no.** :

**To the Attention of the Person in Charge
Embassy of Italy, Cooperation Office
Italian - Egyptian Commodity Aid Programme
Programme Support Unit**

The request shall be sent by post to the address: 1081, Corniche el Nile, 4th floor – Garden City, Cairo, or by fax to the no.: +20 2 27956904.

The requests arrived in a different form respect the above-mentioned one, or if they arrive after 30 days before the Tender closing date, will not be considered.

Any prospective Tenderer seeking to arrange individual meetings with the representative of the Contracting Authority or of the Government of Italian Republic, during the tender period, may incur in exclusion from the tender procedure.

14. Clarification meeting / site visit

No clarification meeting / site visit is foreseen.

15. Alteration or withdrawal of tenders

- 15.1 Tenderers may alter or withdraw their tenders by written notification prior to the deadline for submission of tenders referred to in Article 10. No tender may be altered after this deadline. Withdrawals shall be unconditional and shall end all participation in the tender procedure.
- 15.2 Any notifications of alteration or withdrawal shall be prepared and submitted in accordance with the Tender Instructions contained in this document. The outer envelope must be marked (other than with the other indications according to the provisions in Article 10) with the word 'Alteration' or 'Withdrawal' as appropriate.
- 15.3 No tender may be withdrawn in the interval between the deadline for submission of tenders referred to in Article 10 and the expiry of the tender validity period. Withdrawal of a tender during this interval may result in forfeiture of the tender guarantee.

16. Costs for preparing tenders

No costs incurred by the Tenderer in preparing and submitting the tender shall be reimbursable. All incurred by the Tenderer in preparing and submitting the tender shall be borne by the Tenderer.

17. Ownership of tenders

The Contracting Authority retains ownership in all tenders received under this tender procedure. Consequently, Tenderers have no right to have their tenders returned to them.

18. Joint venture or Consortium

- 18.1 If a Tenderer is a joint venture or consortium of two or more persons, the tender must be single with the object of securing the presence of a single contract; each person must sign the tender and they will be jointly, and severally, bounded for the tender and any resulting contract. Those persons must designate one of their members to act as leader with authority to bind the joint venture or consortium. The composition of the joint venture or consortium shall not be altered without the prior consent in writing of the Contracting Authority.
- 18.2 The tender may be signed by the representative of the joint venture or consortium only if he has been expressly so authorized in writing by the members of the joint venture or consortium, and the authorizing contract, notary-act or deed shall be submitted to the Contracting Authority in accordance with Articles 10 and 11 of these Instructions to Tenderers. All signatures to the authorising instrument must be certified in accordance with the national laws and regulations of each party comprising the joint venture or consortium together with the powers of attorney establishing, in writing, that the signatories to the tender are empowered to enter into commitments on behalf of the members of the joint venture or consortium. Each member of such

joint venture or consortium must provide the proof required under Article 3.5 as if it, itself, were the Tenderer.

19. Opening of the tenders

Tenders shall be opened, at the Ministry of Planning and International Cooperation premises, in public session by the Committee appointed for the purpose by the Contracting Authority, according to timing indicated in the timetable (paragraph 2 of the Instructions to Tenderers) local time of the Contracting Authority.

Only the tenders lying inside the bundle, which have been received within the fixed expiry term, will be taken into consideration. On receiving the tenders, the bundle will be registered according to the order of arrival in the relevant register. Registration number, date and time of arrival will be shown on the bundle. The bundle will remain sealed and will be kept in a safe place until opening session.

During the public opening of the Tenders, the Committee, after verification that the bundles are in conformity to the above **Article 10**, will proceed to the opening of the bundles reading the Tenderer's name and drawing up the tender opening report.

For all the tenders will be performed the following procedure:

- a) Verification of existence of 3 (three) different separate and sealed envelopes, inside of the bundle, named: "Envelope A: Administrative Compliance"; "Envelope B: Technical offer"; "Envelope C: Financial offer";
- b) Opening of the Envelope A: Administrative Compliance", verification of the existence of the required documents and evaluation;
 - Verification of the number, issuing date, amount, validity terms and issuing Bank of the **Tender Guarantee**.

Only for the tenders, which Administrative Compliance is deemed applicable, will be opened the 'Envelope B: Technical offer'

- c) Opening of the envelopes containing the "Technical Offer", verification of the existence of the required documents and evaluation;
 - Booking of the tender alteration or withdrawal notices
 - Booking of any other detail, that the Committee deems necessary, to announce in the tender opening section.

Only for the tenders, which Technical Offers are deemed eligible, will be opened the 'Envelope C: Financial offer'

The Committee, through the Contracting Authority will inform, in written form, all Tenderers about the public opening date of the envelopes containing the "Financial Offer". Only the qualified Tenderers will be contacted. During the meeting it will be recorded the Offer's price of each qualified Tenderer.

After the opening of the tenders, no information concerning examination, specification, evaluation and comparison of the tenders, as well as no recommendation for the award of the Supply Contract will be provided to the Tenderers or to any other person not officially involved in this procedure.

Any attempt by any of the Tenderers to affect the Committee in the procedure of examination, specification, evaluation and comparison of the tenders and in the decisions concerning the identifying of the most suitable tenders will cause the rejection of his tender.

If a tender does not comply with the tender dossier, the Committee will reject it and it cannot be made suitable any more by any sort of amendment.

20. Evaluation of the Tenders

20.1. The Committee will carry out:

- The evaluation concerning the complying of the tenders in regard of the general requirement for qualification and eligibility criteria;
- the analysis and evaluation of the technical documentation in order to assess its wide correspondence with the technical specifications;
- the analysis of the financial proposal and its evaluation in comparison with the other tenders;
- the provisional awarding.

For the above-mentioned activities, the Committee will draw up the relevant minutes of meeting signed by all members.

20.2 The criteria for the technical and financial evaluation, to be carried out by the Committee, are detailed in the Tender's Special Conditions.

In order to proceed examining, evaluating and comparing the tenders, the Contracting Authority shall be able to request the Tenderers for additional information concerning their offers, including splitting the prices per unit. The requests and the answer will be in written form and may take place by any means as described in the Article 13. The alteration of the tender price, technical details of the offer or the content of other information provided, will not be allowed. It cannot be requested or offered, with the only exception of alterations needed to confirm an amendment coming from a miscalculation found out by the Committee during the evaluation of the tenders, in compliance with Article 20.7.

20.3. Before analyzing in details the tenders, and evaluating them, the Committee will verify the conformity of each one of them with the provisions of the tender dossier.

20.4. According to the present article, a suitable tender means an offer that complies with all the terms, conditions and instructions provided by the tender dossier, without any considerable deviation or reserve. A "considerable deviation or reserve" means any discrepancy, alternative, condition or variable able to affect the significance, the quality or the execution of the Supply Contract, in a substantial way and which does not comply with the tender dossier. Or on equal event which, limits the Purchaser's rights or the Tenderer's obligations according to the Supply Contract or causes unfair prejudice to the position in the competition of the Tenderers who have submitted suitable tenders.

20.5. The tenders, which have been considered suitable, will be evaluated from a technical point of view to verify their conformity to the Tender dossier and then they will be classified in a list based on their relevant technical qualities. The Special Conditions represent the detailed criteria to be followed for technical evaluation.

20.6. After the technical evaluation, the tenders, which have eligible according to Article 20.5, will be admitted to the financial evaluation phase. The currency for comparison between the tenders will be the Euro.

20.7. The tenders, considered the most convenient, which conformity has been confirmed, will be also verified in order to find out any sort of mistake in calculations and additions. The Committee will amend miscalculations as follows:

- a) If there is a difference between the amounts in figures and the ones in words, the last ones will be considered valid;
- b) If there is a difference between the unit price and the total amount resulting from the multiplying of this price by the quantity, the unit price shown will be considered valid, except if, in the Committee's opinion, there is an evident mistake in the unit price. In this

case, the total amount shown will be considered valid and the Committee will amend the unit price.

- 20.8. Any tender amount amended by the Committee according to Article 20.7 shall be considered binding for the Tenderer. If the Tenderer does not accept the amended tender amount, his tender will be rejected.
- 20.9. The Italian Expert will be present as an **adviser** at the examination and the award of the tenders will be carried out by the Contracting Authority.
- 20.10. The evaluation procedure will be put on record and the record will be duly signed by the Contracting Authority and by the Italian Expert. A copy of this record and the letters concerning the Supply Contract will be transmitted to MAE-DGCS.
- 20.11. The Tenderer, which deem himself damaged because of a mistake or any irregularity occurred during the evaluation procedure or the supply's award, shall submit the claim directly to the Contracting Authority (The Person in Charge at the Ministry of Planning and International Cooperation of the Arab Republic of Egypt).

The Contracting Authority has 60 days to reply, starting from the receiving date of the complaint after such time elapses, without answer, the claim shall be considered rejected.

20.12 Awarding criteria

The awarding criterion will be the price, the quality, the timing for shipment, the quality of post-sale assistance service and local spare availability. The contract will be awarded to the best tender according to the assigned score.

The Contracting Authority should award the tender comparing at least 3 (three) firms, provided that the number of bids truly received allows it.

20.13 Alterations

The contract may only be modified in the following cases:

- a) modifications of applicable laws and regulations;
- b) unforeseen and unforeseeable circumstances, including the implementation of new materials, components or technology not existing when the award procedure was commenced, provided that the modifications may only ameliorate the quality of the performance, without increasing the contract total amount and without quality of other goods inside the Supply;
- c) events related to the nature or the quality of the goods or places where the contract activities take place, which occur during the contract execution and were unforeseeable when the contract was made;
- d) unless otherwise provided, the above-mentioned modifications may not increase or reduce the total contract amount beyond 20%;
- e) modifications, which, in the interest of the Contracting Authority, increase or reduce the total contract amount, necessary to improve the quality and performance of the project are allowed up to 5%, provided that the funding is available and no substantial modification is made; the modifications shall be only due to overt reasons, unforeseeable when the contract was made;
- f) contractors cannot refuse the above-mentioned modifications and the Contracting Authority has the right to be such modifications executed at the same contractual conditions;

- g) contractors shall execute any non-substantial modification that the Contracting Authority may see fit, provided that the nature of the activity is not fundamentally altered and no additional costs are imposed.

21. Scoring system

The “Contracting Authority”, assisted by the Italian Expert and based on the administrative, technical and economical evaluation report done by the Evaluation Committee concerning the supplies of this tender, will confirm the selection of the Tenderer to whom the supply contract will be awarded. Range of scoring points, which can be assigned for awarding the Tender (in percentage):

Price:	0 - 40
Quality:	0 - 40
Timing for shipment and delivery:	0 - 15
Quality of post-sale assistance service and local spare parts availability:	0 - 5

21.1 PRICE SCORE: 40 points will be assigned to the offer (offers) with the lowest price per unit, calculated by dividing the total price of the offer (according to article 1.2 of Part-A Instructions to Tenderers) divided by the number of items/units, each one having the following weights:

unit:	weight:	;
unit:	weight:	;
unit:	weight:	;

21.2 QUALITY OF THE COMMODITIES: maximum 40 points shall be distributed according to the technical scoring tables, which follow¹⁰.

Technical Scoring Tables:

I-	points:	...	SCORE
A.
B.
C.

21.3 Time of Delivery: maximum 15 points at the offer with the shortest time of delivery; proportionally to the others, as per time¹¹. The score will be assigned according to the delivery date offered starting from the date in which the contract is signed by the parties. The delivery within the terms referred to the contract effectiveness is a mandatory element and not scored. Any declaration from the Tenderer attesting the delivery after a longer period from the contract coming into force, respect what is mentioned in the Instructions to Tenderers, it is null and void and the Tenderer shall delivery within the requested time from the contract coming into force. Any declaration from the Tenderer attesting the delivery after a longer period from the contract signing, respect what is requested in the Instructions to Tenderers, shall not invalidate the offer.

¹⁰ If needed, a decimal number will be rounded to the nearest hundredths digit. The hundredths digit is the second digit after the decimal point. To round at the hundredths digit, the thousandths digit shall be examined. The thousandths digit is the third digit after the decimal point. When the thousandths digit ends in 0, 1, 2, 3, or 4, the hundredths digit is rounded down. When the thousandths digit ends in 5, 6, 7, 8, or 9, the hundredths digit is rounded up. Therefore, 71.985 rounded to the nearest hundredths digit is 71.99 and 71.984 rounded to the nearest hundredths digit is 71.98. The total score shall be the sum of the score per item.

¹¹ Example. Offer A: delivery after 225 days from signing of the Supply Contract; Offer B: delivery after 180 days from signing of the Supply Contract; Offer C: delivery after 150 days from signing of the Supply Contract. Offer C obtains 15 scoring points, offer A obtains $(15/225 \times 150)$ 10.00 scoring points and offer B obtains $(15/180 \times 150)$ 12.5 scoring points.

However, the Contracting Authority will score the offer considering as delivery date the last available date according to Instruction to the Tenderers (lowest score in case of shortest time of delivery offered by other Tenderers).

21.4 Quality of post sale assistance and service, and local spare parts' availability: maximum 5 points subdivided as follow:

- Number of assistance centres:
 - o In case of 1 assistance centre, 2 points will be assigned. The assistance centre shall be operative in the Country for at least the last 5 years and have already a professional relationship with the Tenderer at least from the last 2 years. Evidences shall be provided through a self-declaration by the Tenderer and the local assistance centre specifying the past activities of the local assistance centre and co-work with the Tenderer. In case of failure to provide such evidences the score shall not be assigned;
 - o If more, 1 point for every extra assistance centre within the limits of the maximum available points according to the above mentioned rule;
- Availability of spare parts in Egypt within 48 hr, 1 point. With the declaration to be able to provide spare parts within 48 hours, in case of failure, the Tenderer accepts the responsibility for the extra costs the Consignee shall encounter to acquire spare parts from other sources at higher prices respect the price lists offered by the Tenderer;
- Intervention time of the Company within 24 hr, 2 point. With the declaration of intervention within 24 hours, in case of failure, the Tenderer accepts the responsibility for the extra costs the Consignee shall encounter to receive the needed intervention from another supplier.

22. Award notice

22.1 Before the expiry of the tender validity period, the Contracting Authority shall notify the Tenderer in written, that its tender resulted to be the most qualified and the chosen one for providing the commodities.

22.2 Unless otherwise provided, as soon as the Tenderer has provided the Performance Guarantee according to the Article 24.2 the Contracting Authority will promptly notify the other Tenderers that their tenders haven't been successful and return their Tender Guarantee to them.

22.3 The Tender results will be published in the Italian Co-operation Bulletin (DIPCO).

23. Drawing up of the supply contract

23.1 After receiving the notice concerning the result of the tender by the Evaluation Committee, the Contracting Authority shall draw up the Supply Contract to be submitted to the Tenderer and the Consignee for signing. The Person in Charge as the right to sign also as Consignee.

It will contain at least:

- a) The list of the documents forming the Supply Contract, showing the order of importance of the documents;
- b) Any enclosure and derogation to the over mentioned documents, duly approved;
- c) Price of the Supply Contract;
- d) Decisions made by the Contracting Authority.

24. Signing of the supply contract

- 24.1 Unless otherwise provided, the Contractor (as Supplier), the Consignee and the Contracting Authority (as Purchaser), will sign the Supply Contract within 30 days from the awarding date. If the Person in Charge signs representing for both the Consignee and the Contracting Authority, it is understood that the Ministry of Planning and International Cooperation is also the Consignee. The Italian Expert will sign the Supply Contract as compliance statement in regard to the provisions contained in the agreement between Italian and the Egyptian Government.
- 24.2 The Contracting Authority will not sign the Supply Contract until the Performance Guarantee has been drawn up.
- 24.3 In case of withdrawal of the Contractor, the Contracting Authority can exercise its rights on the Tender Guarantee. Moreover, the Contracting Authority can assign the Tender to other Tenderers, according to the position of their offers in the classification or a new Tender procedure can be started.
- 24.4 The Supply Contract can be signed by all the signatories in Egypt on the same date, at Ministry of Planning and International Cooperation premises, or it can be signed in different locations by the different signatories. In this last case the order for signing the contract by the signatories is the following:
- **The Consignee**
 - **The Contracting Authority**
 - **The Contractor**
 - **The Italian Expert**

The Consignee can be the same representative of the Contracting Authority, in such circumstance only the signature of the Person in Charge shall be present in the Supply Contract representing both the Consignee and the Contracting Authority.

25. Signature of the supply contract and performance guarantee

- 25.1 The Contracting Authority will communicate in writing the provisional award notification to the successful Tenderer. After that, the successful Tenderer shall provide the documentary proof to show that it does not fall into the non-eligible categories listed in this Tender dossier.
- 25.2 Unless otherwise provided in the tender dossier, the successful Tenderer will provide the Performance Guarantee, and the above-mentioned documents, within 30 days after the date of receiving of the award notice received by the Contracting Authority.
- 25.3 If the Successful Tenderer fails to provide this Guarantee within 30 calendar days following the notification of the provisional award or if the successful Tenderer is found to have provided false information, the award will be considered null and void. In such a case, the Contracting Authority may award the tender to another Tenderer or cancel the tender procedure.
- 25.4 Within 60 calendar days, but not before 30 calendar days, from the final award notification, the Contracting Authority and the successful Tenderer shall sign and date the Contract. The successful Tenderer shall return the Contract with the **performance guarantee** and the delivery schedule.
- 25.5 In case the supply contract is not signed in Egypt, within 30 days from receipt of the contract, already signed by the Contracting Authority, the selected Tenderer shall sign and date the contract and return it, with the performance guarantee, to the Contracting Authority. On signing the contract, the successful Tenderer will become the Contractor and the contract will enter into force.

- 25.6 If it fails to sign and return the contract and any financial guarantee and schedule required within the due date, the Contracting Authority may consider the acceptance of the Tender to be cancelled. Such event, without prejudice to the Contracting-Authority's right to seize the guarantee, claim compensation or pursue any other remedy in respect of such failure, and the successful Tenderer will have no claim whatsoever on the Contracting Authority.
- 25.7 The **performance guarantee** referred to in the General Conditions is set at 10% of the price of the contract and must be presented in the form specified in the annex to the tender dossier. It shall be released within 30 days of the date of the final acceptance by the Contracting Authority. In the circumstance the supply is awarded to a Tenderer which bid's price is lower than 90% of the upset price, the performance guarantee shall be 15% of the price of the contract.

26. Tender Guarantee

The tender guarantee referred to in Article 11 above is set at 2% (two per cent) of the Total amount of the Upset Price as indicated in article 11.3 of these Instructions to Tenderers

and must be presented in the form specified in the Annex V to the tender dossier. It shall remain valid for 90 days¹² beyond the period of validity of the tender.

Tender guarantees provided by Tenderers who have not been selected will be released not later than 60 days after the signing of the Supply Contract. The tender guarantee of the successful Tenderer shall be released on the signing of the Supply Contract, once the Performance Guarantee has been submitted.

The Guarantor that provides the Tender guarantee shall commit itself, in case of successful selection of the supplier, to issue the Performance Guarantee according to the requirements of this Instruction to Tenderers. The supplier can provide a commitment letter also issued by another Guarantor, different respect the Guarantor who issued the Tender Guarantee.

27. Ethics clauses

- 27.1 Any attempt by a candidate or Tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the committee or the Contracting Authority during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of its candidacy or tender and may result in administrative penalties.

¹² The Tender Guarantee shall be able to cover a period from the presentation of the offer up to the signing of the Supply Contract, and presentation of a Performance guarantee, by the successful Tenderer. Considering that the Successful Tenderer and the Contracting Authority shall sign the Supply Contract at most 90 days after the Tender closing date, the term of 90 days of validity after such closing date is the minimum time requested in principle and for this reason 90 days validity after closing date for presenting the offers, is considered as much as necessary. However Tenderers shall be bound by their tenders for a period of 120 days from the deadline for submission of tenders. In the circumstance, for any unforeseeable reason, the Supply Contract delays its signature after the above mentioned limit, or the Successful Tenderer delays providing the Performance guarantee, or the second successful Tenderer is finally chosen to sign the Supply Contract instead of the first, the Contracting Authority may request to extend the Tender guarantee up to 120 days from the deadline for the submission of tenders. If a Tenderer presents a 90-day-after-deadline guarantee validity will have a benefit in the shorter time for guarantee release, but he may have a loss in term of extension-price, if he is requested to extend the guarantee by the Contracting Authority, as all the offers shall be valid up to 120 days after dead line for tenders' presentation. The Annex V to Section E, is a suitable Format but the Tenderers shall evaluate the length of the guarantee, considering 90 or 120 days, paying attention to the above mentioned considerations. This guarantee, as all the others, shall be in the sole and direct favour of the Contracting Authority, the Ministry of International Cooperation of the Arab Republic of Egypt which shall be able to receive the payments without objection or legal proceedings of any kind, upon presentation of your its first written claim, stating that the Contractor has failed to perform its contractual obligations. There shall not be any intermediary bank between the parties other than the issuing bank.

- 27.2 Without the Contracting Authority's prior written authorization, a Supplier and its staff or any other company with which the Supplier is associated or linked may not, even on an ancillary or subcontracting basis, supply other services, carry out work or supply equipment for the project. This prohibition also applies to any other projects that could, owing to the nature of the contract, give rise to a conflict of interest on the part of the Supplier.
- 27.3 When putting forward a candidacy or tender, the candidate or Tenderer must declare that, it is affected by no potential conflict of interest, and that it has no particular link with other Tenderers or parties involved in the project. Should such a situation arise during performance of the contract, the Supplier must immediately inform the Contracting Authority.
- 27.4 The Supplier must at all time act honourably and impartially in accordance with the code of conduct of its profession. It must refrain from making public statements about the project or services without the Contracting Authority's prior approval. It may not commit the Contracting Authority in any way without its prior written consent.
- 27.5 For the duration of the contract, the Supplier and its staff must respect human rights and undertake not to violate the political, cultural and religious mores of the recipient state.
- 27.6 The Supplier may accept no payment connected with the contract other than that provided for therein. The Supplier and its staff must not exercise any activity or receive any advantage inconsistent with their obligations to the Contracting Authority.
- 27.7 The Supplier and its staff are obliged to maintain professional secrecy for the entire duration of the contract and after its completion. All reports and documents drawn up or received by the Supplier are confidential.
- 27.8 The contract shall govern the contracting parties' use of all reports and documents drawn up, received or presented by them during the execution of the contract.
- 27.9 The Supplier shall refrain from any relationship likely to compromise its independence or that of its staff. If the Supplier ceases to be independent, the Contracting Authority may, regardless any collateral cost, terminate the contract without further notice and without the Supplier having any claim of compensation.
- 27.10 The Contracting Authority reserves the right to suspend or cancel commodity aids if corrupt practices of any kind are discovered at any stage of the award process and if the Contracting Authority fails to take all appropriate measures to remedy the situation. For the purposes of this provision, "corrupt practices" are the offer of a bribe, gift, gratuity or commission to any person as an inducement or reward for performing or refraining from any act relating to the award of a contract or implementation of a contract already concluded with the Contracting Authority.
- 27.11 All tenders will be rejected or contracts terminated if it emerges that the award or execution of a contract has given rise to unusual commercial expense. Such unusual commercial expense, are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract: commissions not paid in return for any actual and legitimate service; commissions remitted to a tax haven; commissions paid to a recipient who is not clearly identified; commissions paid to a company which has every appearance of being a front company.
- 27.12 The Supplier undertakes to supply the Contracting Authority's on request with supporting evidence regarding the conditions in which the contract is being executed. The Contracting Authority may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in cases of suspected unusual commercial expenses.
- 27.13 Civil servants or other officials of the public administration of the A.R. of Egypt, regardless of their administrative situation, must not be engaged as experts by the Tenderers unless the prior approval of the MAE-DGCS has been obtained.

- 27.14 Tenders will be rejected, or contracts terminated, if it emerges that the award or execution of a contract has given rise to unusual commercial expenses. Such unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract: commissions not paid in return for any actual and legitimate service; commissions remitted to a tax haven; commissions paid to a recipient who is not clearly identified; commissions paid to a company which has every appearance of being a front company.
- 27.15 Contractors found to have paid unusual commercial expenses on Projects funded by the MAE-DGCS are liable, depending on the seriousness of the facts observed, to have their contracts terminated or to be permanently excluded from receiving MAE-DGCS funds.
- 27.16 For the purpose of this Tender, the Contracting Authority will ensure that the procurement procedure is concluded in a transparent manner, based on objective criteria and disregarding any possible external influence.
- 27.17 Failure to comply with one or more of the ethics clauses may result in the exclusion of the candidate, Tenderer (or Supplier) from other contracts by the Contracting Authority and in penalties. The individual or company in question must be informed of the fact in writing.

28. Cancellation of the tender procedure

In the event of cancellation of the tender procedure¹³, Tenderers will be notified of the cancellation by the Contracting Authority. If the tender procedure is cancelled before the outer envelope of any tender has been opened, the unopened and sealed envelopes will be returned to the Tenderers.

Cancellation may occur where:

- the tender procedure has been unsuccessful, i.e., no qualitatively or financially worthwhile tender has been received or there is no response at all;
- the economic or technical data of the project have been fundamentally altered;
- exceptional circumstances or *force major* render normal performance of the contract impossible;
- all technically compliant tenders exceed the financial resources available;
- there have been irregularities in the procedure, in particular where these have prevented fair competition.

After cancelling a tender procedure, the Contracting Authority may decide:

- to launch a new tender procedure;
- to open negotiations with one or more Tenderers who comply with the selection criteria and have submitted technically compliant tenders, provided that the original terms of the contract have not been substantially altered;
- not to award the contract.

Whatever the case, the final decision is taken by the Contracting Authority with the agreement of the Financial Authority.

The “Contracting Authority”, represented by the Person in Charge at the Ministry of Planning and International Cooperation of the Arab Republic of Egypt, has the right to refuse any and/or all tenders, if it deems that one or more requested element are not fulfilled by the Tenderer/s, without appeal.

¹³ Under no circumstances the Contracting Authority shall be liable for any damages whatsoever claimed by any part including, without limitation, damages for loss of profits, in any way connected with the cancellation of a tender even if the Contracting Authority has been advised of the possibility of damages or the tenders have been submitted under any sort of condition. The publication of a procurement notice does not commit the Contracting Authority to implement the programme or the project announced.